IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Appeal from Order No.201 of 2006
With
Civil Application No.277 of 2006
With
Civil Application No.369 of 2006
With
Civil Application No.370 of 2006

Mrs.Sadhana Sunil Patankar — Appellant
Vs.
Dr.Vikram Hiralal Kaluskar & ors. — Respondents

Mr.G.S.Godbole for appellant.
Mr.R.G.Ketkar for Resp.Nos.1,2,5 and 6.
Mr.M.R.Deshpande for Resp.No.4.

CORAM: B.H.MARLAPALLE,J.
July 26, 2006.

P.C.

. Heard Mr.Godbole, the learned counsel for the petitioner-plaintiff who is aggrieved by the order dated 21/1/2005 passed by the learned Jt. Civil Judge, Senior Division at Pune thereby rejecting the application at Exhibit 5 for temporary injunction in Special Civil Suit No.1348 of 2005.

. As per the plaintiff she is the beneficiary of three different gift deeds in respect of three flats in Attreya Co-operative Housing Society Ltd. owned by Mr.P.M.Shah and purportedly gifted to her by the said gift deeds signed on or about 21st July 2001. She also relied upon the Will made by Mr.Shah on

31/12/2001 and prayed for an injunction restraining the defendants from disturbing her possession.

. The defendants appeared before the trial Court and filed the reply / Say at Exhibit 25 and pointed out the Court below that Mr.P.M. Shah, who died on 29/6/2005, had made a fresh Will on 14th March 2005 and bequeathed the suit property to a public charitable trust named as "P.M. Shah Foundation". The trial Court considered the rival claims and also noted that there was no prima facie evidence to support the plaintiff's case that she was put in possession of the three flats which in fact figure in the schedule attached to the Will dated 14th March 2005 as the property of the newly established trust. There is yet another letter dated 30/6/2005 addressed by the plaintiff's husband to Advocate Kiran Kothadiya which referred to the gift deeds as well as the trust formed and clearly stated that the decision regarding Mr.Shah's property would rest on the trustees of the newly formed trust. On these obtaining circumstances the trial Court refused the plaintiff's prayer for interim injunction restraining the defendants. No fault could be found with the view taken by the trial Court supported by the

reasons stated therein. Hence, there is no case to interfere with the impugned order in this appeal.

. The appeal is hereby rejected summarily.

. As far as the plaintiff's prayer for appointment of Court receiver is concerned, for which Civil Application No.370 of 2006 has been filed, undoubtedly the plaintiff is at liberty to submit such an application before the trial Court. In case such an application is made by the plaintiff to the trial Court within a period of four weeks from today, the trial Court shall decide the same after hearing all the parties concerned as per law and as expeditiously as possible, preferably within a period of two months from its presentation and this application shall be considered without being influenced by the earlier orders.

. In view of the above, Civil Application Nos.277, 369 and 370, all of 2006 do not survive and the same shall stand disposed off.

(B.H.MARLAPALLE,J.)